



Paper No. 5

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OFFICE OF PETITIONS

In re Application of :
Jeffrey H. Diamond :
Application No. 09/920,750 : DECISION GRANTING PETITION
Filed: 3 August, 2001 :
Attorney Dkt. No. 0136.0003C :

This is a decision on the petition filed on 18 October, 2001, requesting that the above-identified application, including five (5) sheets of drawings, be accorded a filing date of 3 August, 2001.

On 3 August, 2001, the application was filed.

On 7 September, 2001, Initial Patent Examination Division (IPED) mailed a "Notice of Incomplete Nonprovisional Application" stating that the application had been deposited without drawings, and that applicant should reconsider whether drawings are necessary under 35 U.S.C. § 113 (first sentence).

On 18 October, 2001, petitioners filed five (5) sheets of drawings, the present petition, and a petition fee of \$130.00. Petitioners argue that five (5) sheets of drawings were filed with the other application papers on 3 August, 2001, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied on 18 October, 2001. The postcard receipt shows an Office date stamp of 3 August, 2001 and the present application number, and acknowledges receipt of 5 sheets of formal drawings. Petitioners request that the application, including five (5) sheets of drawings, be accorded a filing date of 3 August, 2001.

A review of the record reveals that no sheets of drawings are located among the application papers deposited on 3 August, 2001. However, the evidence is convincing that the application papers deposited on 3 August, 2001, included five (5) sheets of drawings, which were subsequently misplaced in the Office.

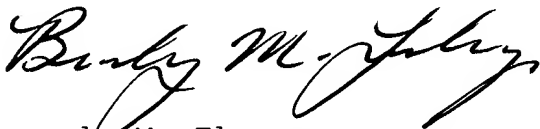
Therefore, the application, including five (5) sheets of drawings, is entitled to a filing date of 3 August, 2001.

The Notice of Incomplete Nonprovisional Application mailed on 7 August, 2001, was sent in error is hereby vacated.

In view of the above, the petition is granted. The petition fee of \$130.00 will be credited to counsel's deposit account, No. 05-0460.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of 3 August, 2001, using the application papers filed on 3 August, 2001, and the five (5) sheets of drawings supplied on 18 October, 2001.

Telephone inquiries should be directed to Petitions Attorney Douglas I. Wood at 703 308-6918.



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